

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

MARLEAN A. AMES	)	CASE NO. 2:20-cv-05935
	)	
Plaintiff,	)	CHIEF JUDGE ALGENON L. MARBLEY
	)	
v.	)	CHIEF MAGISTRATE JUDGE
	)	ELIZABETH P. DEAVERS
STATE OF OHIO DEPARTMENT	)	
OF YOUTH SERVICES	)	
	)	<b><u>PLAINTIFF'S REPLY IN SUPPORT OF</u></b>
Defendant.	)	<b><u>MOTION TO AMEND COMPLAINT</u></b>
	)	

**I. Introduction**

Plaintiff, Marlean A. Ames, filed a motion for leave to amend her complaint instanter with the court on April 9, 2021 to clarify certain sections of the complaint. (Doc #18). Defendant argues that such motion was filed in an attempt to cure facial deficiencies in response to Defendant's Motion for Partial Judgment on the Pleadings, which Defendant filed on March 26, 2021. (Doc #11). Defendant further articulates that amending the complaint, as Plaintiff did, was "futile." However, Plaintiff complied with the scheduling order set by the Court and filed the motion for leave to amend to clarify factual allegations set forth.

**II. Argument**

- A. Plaintiff's amended complaint is proper and should be granted as it adheres to the Court's Scheduling Order.

In the Preliminary Pretrial Order on March 9, 2021, parties agreed to the April 9, 2021 deadline to amend pleadings, and the Court ordered such a date. (Page ID 77, Doc. # 9). The language on this particular page of the Preliminary Pretrial order stated “Motions or stipulations to amend the pleadings or joint additional parties shall be filed by April 9, 2021.” Parties worked together and with the Court to set these deadlines. Further, the Court placed no limitation as to what could be said or added to the pleadings on or before such deadline. Plaintiff complied with this deadline and the discretion granted under the language of the Preliminary Pretrial Order. Therefore, any opposition to a timely and properly pleaded motion exercised within the Court’s specifically articulated perimeters would be frivolous. Here, Defendant frivolously used this opposition to a proper and timely-filed amended pleading to bolster its argument in support of its partial motion for judgment on the pleadings.

### **III. Conclusion**

Because Plaintiff has complied with the Court’s Preliminary Pretrial Order deadlines, the purpose of amending complaints being to add clarification to the pleading, as well as fully briefed and argued any issues relating to the Motion for Partial Judgment on the Pleadings, the motion for leave to amend the complaint should be granted.

Respectfully submitted,

**EDWARD L. GILBERT CO., LPA**

/s/ Edward L. Gilbert  
Edward L. Gilbert (0014544)  
One Cascade Plaza, Suite 825  
Akron, Ohio 44308  
(330) 376-8855 Telephone  
(330) 376-8857 Fax  
[egilbert@edwardlgilbert.com](mailto:egilbert@edwardlgilbert.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was electronically filed on April 28, 2021.

Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Parties may access this filing through the Court's system.

/s/ Edward L. Gilbert  
Edward L. Gilbert (0014544)